

falls. Paragraph (c) of this section addresses how to determine biobased content. Upon request, manufacturers and vendors must provide USDA and Federal agencies information to verify biobased content for products certified to qualify for preferred procurement.

(b) *Minimum biobased content.* Unless specified otherwise in the designation of a particular product category or intermediate ingredient or feedstock category, the minimum biobased content requirements in a specific category designation refer to the organic carbon portion of the product, and not the entire product.

(c) *Determining biobased content.* Verification of biobased content must be based on third party ASTM/ISO compliant test facility testing using the ASTM Standard Method D6866, “Standard Test Methods for Determining the Biobased Content of Solid, Liquid, and Gaseous Samples Using Radiocarbon Analysis.” ASTM Standard Method D6866 determines biobased content based on the amount of biobased carbon in the material or product as percent of the weight (mass) of the total organic carbon in the material or product.

(1) *Biobased products, intermediate ingredients or feedstocks.* Biobased content will be based on the amount of

biobased carbon in the product or material as a percent of the weight (mass) of the total organic carbon in the product or material.

(2) *Final products composed of designated intermediate ingredient or feedstock materials.* The biobased content of final products composed of designated intermediate ingredient or feedstock materials will be determined by calculating the percentage by weight (mass) that the biobased component of each designated intermediate ingredient or feedstock material represents of the total organic carbon content of the final product and summing the results (if more than one designated intermediate ingredient or feedstock is used). If the final product also contains biobased content from intermediate ingredient or feedstock material that is not designated, the percentage by weight that these biobased ingredients represent of the total organic carbon content should be included in the calculation.

(3) *Complex assemblies.* The biobased content of a complex assembly product, where the product has “n” components whose biobased and organic carbon content can be experimentally determined, will be calculated using the following equation:

$$\text{Biobased Content of Product} = \frac{\sum_{i=1}^n M_i * BCC_i * OCC_i}{\sum_{i=1}^n M_i * OCC_i}$$

Where:

M_i = mass of the nth component

BCC_i = biobased carbon content of the nth component (%)

OCC_i = organic carbon content of the nth component (%)

(d) *Products and intermediate ingredients or feedstocks with the same formulation.* In the case of products and intermediate ingredients or feedstocks that are essentially the same formulation, but marketed under more than one brand name, biobased content test data need not be brand-name specific.

[79 FR 44656, Aug. 1, 2014]

§ 3201.8 Determining price, environmental and health benefits, and performance.

(a) *Providing information on price and environmental and health benefits.* Federal agencies may not require manufacturers or vendors of qualified biobased products to provide to procuring agencies more data than would be required of other manufacturers or vendors offering products for sale to a procuring agency (aside from data confirming the biobased contents of the products) as a condition of the purchase of biobased products from the manufacturer or vendor. USDA will work with manufacturers and vendors

§ 3201.9

to collect information needed to estimate the price of biobased products, complex assemblies, intermediate materials or feedstocks as part of the designation process, including application units, average unit cost, and application frequency. USDA encourages industry stakeholders to provide information on environmental and public health benefits based on industry accepted analytical approaches including, but not limited to: Material carbon footprint analysis, the ASTM D7075 standard for evaluating and reporting on environmental performance of biobased products, the International Standards Organization ISO 14040, the ASTM International life-cycle cost method (E917) and multi-attribute decision analysis (E1765), the British Standards Institution PAS 2050, and the National Institute of Standards and Technology BEES analytical tool. USDA will make such stakeholder-supplied information available on the Bio-Preferred Web site.

(b) *Performance test information.* In assessing performance of qualified biobased products, USDA requires that procuring agencies rely on results of performance tests using applicable ASTM, ISO, Federal or military specifications, or other similarly authoritative industry test standards. Such testing must be conducted by a laboratory compliant with the requirements of the standards body. The procuring official will decide whether performance data must be brand-name specific in the case of products that are essentially of the same formulation.

(c) *Biodegradability information.* If biodegradability is claimed by the manufacturer of a qualifying biobased product as a characteristic of that product, USDA requires that, if requested by procuring agencies, these claims be verified using the appropriate, product-specific ASTM biodegradability standard(s). Such testing must be conducted by an ASTM/ISO-compliant laboratory. The procuring official will decide whether biodegradability data must be brand-name specific in the case of products that are essentially of the same formulation. ASTM biodegradability standards include:

7 CFR Ch. XXXII (1–16 Edition)

(1) D5338 “Standard Test Method for Determining Aerobic Biodegradation of Plastic Materials Under Controlled Composting Conditions”;

(2) D5864 “Standard Test Method for Determining the Aerobic Aquatic Biodegradation of Lubricants or Their Components”;

(3) D6006 “Standard Guide for Assessing Biodegradability of Hydraulic Fluids”;

(4) D6400 “Standard Specification for Compostable Plastics” and the standards cited therein;

(5) D6139 “Standard Test Method for Determining the Aerobic Aquatic Biodegradation of Lubricants or Their Components Using the Gledhill Shake Flask”;

(6) D6868 “Standard Specification for Biodegradable Plastics Used as Coatings on Paper and Other Compostable Substrates”; and

(7) D7081 “Standard Specification for Non-Floating Biodegradable Plastics in the Marine Environment.”

[70 FR 1809, Jan. 11, 2005, as amended at 71 FR 13704, Mar. 16, 2006; 71 FR 42575, July 27, 2006; 76 FR 6322, Feb. 4, 2011; 79 FR 44657, Aug. 1, 2014]

§ 3201.9 [Reserved]

Subpart B—Designated Product Categories and Intermediate Ingredients or Feedstocks

SOURCE: 71 FR 13705, Mar. 16, 2006, unless otherwise noted. Redesignated at 76 FR 53632, Aug. 29, 2011.

§ 3201.10 Mobile equipment hydraulic fluids.

(a) *Definition.* Hydraulic fluids formulated for general use in non-stationary equipment, such as tractors, end loaders, or backhoes.

(b) *Minimum biobased content.* The minimum biobased content is 44 percent and shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) *Preference effective date.* No later than March 16, 2007, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased mobile equipment